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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,569	02/25/2005	Terry Cassaday	56836.40/ejg	3042
33797 7590 03/27/2007 MILLER THOMPSON, LLP Scotia Plaza 40 King Street West, Suite 5800 TORONTO, ON M5H 3S1 CANADA			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT	PAPER NUMBER
			3636	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/27/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/525,569	Applicant(s) CASSADAY, TERRY	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16 and 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11, 2007 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hinge mechanism located between said chair and said pedestal chair base must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 6-8, 21 and 24 are objected to because of the following informalities:
 - Claim 6 recites "said chair" in line 6. A chair is not previously positively recited but just listed as an optional format for the member. It appears as if Applicant should state that the member is a chair prior to positively claiming the chair.
 - Claim 8 recites "the controls" in line 3. Previous recitations referred only to a single control. Clarification is requested.
 - Claim 21, lines 3: The phrase "said electrical energy" lacks sufficient antecedent basis.
 - Claim 24, lines 2: The phrase "said pedestal chair base" lacks sufficient antecedent basis.
 - Claim 7 is objected as being dependent upon an objected base claim.Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6, 8-12, 16, 19, 21, 22, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruteser et al. (6,870,477). With respect to claim 1, Gruteser et al. discloses a member (100) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (100) including information output circuitry (110)(130) which outputs information from said member (100), and an energy converter, either in the form of "solar cells" (column 5, line 17), or wheels (105) "used to generate electricity" (column 5, line 29), which convert energy to which the member (100) is exposed to electrical energy for powering said information output circuitry (110)(130), wherein said information output circuitry (110)(130) is linked to a control (240) for a moveable part of said member (i.e. a "vibrator" (column 6, line 23) or a deformable part of the seat or back of the chair (column 6, line 22)), and said information output circuitry (110) outputs information regarding use of said control (240).

With respect to claim 2, said energy converter comprises a solar panel provided on an exposed surface of said member given that "solar cells" can be used to provide the seat with electrical energy without the need for wires (column 5, lines 14-16).

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With respect to claim 3, said information output circuitry (110)(130) is further linked to a sensor used to detect a human heartbeat (column 3, lines 21-27).

With respect to claim 4, a digital display, in the form of a PC with an input device and display (column 6, lines 4-7) also powered by said energy converter and displaying information from said biorhythm sensor.

With respect to claim 5, said member (100) comprises a chair and said energy converter converts motion of a moveable portion of the chair (i.e. forward and backward motion of the chair back (column 5, lines 23-25) or rotational motion of the wheels (105)) to electrical energy.

With respect to claim 6, Gruteser discloses a member (100) from the group of member consisting of a chair member, a bed member and a lounge member, said member (100) including an information output device (130)(240) which outputs information from said member (100), an energy converter either in the form of "solar cells" (column 5, line 17), or wheels (105) "used to generate electricity" (column 5, line 29), which convert energy to which the member (100) is exposed to electrical energy for powering said information output device (130)(240), wherein said information output device (130)(240) comprises a control (240) for a moveable part of said chair (i.e. a "vibrator" (column 6, line 23) or a deformable part of the seat or back of the chair (column 6, line 22)), said control (240) outputting information regarding direction of use of said control without producing movement of the chair (column 6, lines 7-12).

With respect to claim 8, a visual display, in the form of a pc, is also powered by said energy converter, said visual display visually displaying the directions of use of the controls.

With respect to claim 9, an electrical rechargeable power pack (212) which is charged by said energy converter, said power pack storing the electrical energy and dispersing the electrical energy as required.

With respect to claim 10, said member (100) comprises a chair having rolling casters (105) for generating said electrical energy.

With respect to claim 11, said member comprises a chair and said chair has a back and a seat and a moveable hinge between said back and seat for generating said electrical energy (column 5, lines 20-23).

With respect to claim 12, electrically operated body repositioning means, in the form of deforming seat or back of the chair (column 6, lines 20-21) is powered by said energy converter.

With respect to claim 16, Gruteser discloses a chair (100) having electrical power requirements, and a generator (unlabeled) carried by said chair (100) for converting energy to which the chair is exposed to electrical energy for powering said electrical power requirements, whereby said generator converts rolling motion of said chair (100) to electrical energy for meeting said electrical power requirements and wherein said chair (100) includes moveable casters (105) and said generator is disposed in said casters (105) for converting motion of said casters (105) to said electrical energy.

With respect to claim 19, Gruteser discloses a chair (100) having electrical power requirements, and a generator (unlabeled) carried by said chair (100) for converting energy to which the chair is exposed to electrical energy for powering said electrical power requirements further including a rechargeable battery (212) carried by said chair (100) wherein said generator recharges said battery (212), said battery powering said electrical power requirements of said chair.

With respect to claim 21, Gruteser discloses a chair (100) comprising an information output device (130), which outputs information from, said chair (100) and rolling casters (105) for generating said electrical energy for powering said information output device (130).

With respect to claim 22, Gruteser discloses a chair (100) comprising an information output device (130), an energy converter, in the form of "a means for producing electricity based upon the linear motion of elements" (column 5, lines 24-25), and a moveable hinge which facilitates movement when the chair occupant leans back or forward causing elements of the chair to move with respect to each other, wherein said energy converter converts energy for powering said information output device (130).

With respect to claim 25, Gruteser discloses a member (100) selected from the group of members consisting of a chair member, a bed member and a lounge member, said member (100) including information circuitry (110)(130) which outputs information about said member (100) and an energy converter (105) disposed on said member

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(100) for converting energy to which the member is exposed to electrical energy for powering said information circuitry (110)(130).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Sparks (6,204,767). As disclosed above, Gruteser disclosed all claimed elements except the provision of audio feedback from the control.

Sparks teaches the use of audio feedback, output from speaker element (10), triggered by control unit (34)(36)(38)(40).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate a sound signaling system into the chair (100) disclosed by Gruteser. Such a modification would enable people located in the vicinity of the seat to become aware of a situation regarding the seat occupant.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Burt (US 2002/0056709). As disclosed above, Gruteser reveals all claimed elements with the exception of said body-repositioning means comprising a lumbar adjustment member controlled by a timer.

Burt teaches the use of lumbar supports (20) that include heated electrically conductive elastomeric materials. The expansion and contraction of the lumbar elements are traditionally controlled by a timer (paragraph [0004]) and provide a vibrating motion.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add lumbar support elements to the seat disclosed by Gruteser. Such a modification would ensure that seat occupants do not get fatigued backs while sitting in the seat.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a chair having both a movement generator and a solar power generator for supplying electricity to a chairs electronic display.

Gruteser does teach the use of a solar panel or the use of a movement generator. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use both energy generation mechanisms in a single chair since doing so would merely increase the performance of the seat.

10. Claims 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Deaton (2,838,095). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a hinge located between said back and said seat or between a seat and a pedestal.

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Deaton discloses a hinge (16) located between a seat (S) and a back (34).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to locate the hinge in the seat disclosed by Gruteser in the position taught by Deaton. Such a hinge is well known in the art for providing user adjustability and improved comfort.

11. Claims 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruteser et al. (6,870,477) in view of Bell (2,310,346). As disclosed above, Gruteser et al. discloses all claimed elements with the exception of a hinge located between said back and said seat or between a seat and a pedestal.

Bell discloses a hinge (94) located between a seat (98) and a pedestal (10).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to locate the hinge in the seat disclosed by Gruteser in the position taught by Bell. Such a hinge is well known in the art for providing user adjustability and improved comfort.

Response to Amendment/Arguments

12. The request for continued examination filed on March 8, 2007 has been considered in its entirety. Applicant's arguments with respect to Jansen, Ziegler and Burt are moot in view of the new grounds of rejection set forth above.

Gruteser discloses an electronic display for displaying information in the form of a PC with a display (column 6, line 8). Gruteser also discloses a control (240), which

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displays information on the electronic display. The seat occupant can respond to such information by sending signals to the control, which will in turn modify the characteristics of the seating environment.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sarah B. McPartlin
Patent Examiner
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SBM

March 20, 2007